

**CITY OF MILPITAS**  
**Summary of Contents**  
**Milpitas City Council Meeting**  
**March 1, 2005**  
**6:00 p.m. Closed Session**  
**7:00 p.m. Public Business**  
**455 E. Calaveras Boulevard**

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**I. ROLL CALL (6:00 p.m.)**

**II. ADJOURN TO CLOSED SESSION**

1. Public Employee Performance Evaluation/Appointment  
(Pursuant to Government Code Section 54957)  
Title: City Attorney

**III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote on abstention of each member present**

**IV. WORKSESSION (6:15 p.m.)**

**Background:** KB Home South Bay Inc. has requested the City provide initial feedback on a preliminary concept to redevelop the 22-acre site owned by the MUSD, which currently contains a multi-tenant industrial park. The conceptual site plan that will be presented by KB Home shows approximately 200 small lot single-family homes on 18 acres, two four-acre sites along I-880 for future commercial uses, and a re-alignment of South Abbott Avenue. The purpose of the worksession is to allow the Council the opportunity to provide initial comments on the development concept. No decision on the proposal can be made until the project is formally brought to the Council through the appropriate zoning and CEQA processes.

**Recommendation:** Receive presentation and provide initial comments.

**V. PLEDGE OF ALLEGIANCE (7:00 p.m.)**

**VI. APPROVAL OF MINUTES: February 15, 2005**

**VII. SCHEDULE OF MEETINGS**

**VIII. PRESENTATIONS**

**Proclamations:**

- Science Fair Week, March 14-19, Santa Clara Valley Science and Engineering Fair Association
- American Red Cross Month – March 2005, American Red Cross Santa Clara Valley Chapter

**IX. CITIZENS FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to under two minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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**X. ANNOUNCEMENTS**

**XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**

**XII. MOMENTS OF REFLECTION**

**XIII. APPROVAL OF AGENDA**

**XIV. CONSENT CALENDAR (Items with Asterisks)**

**XV. PUBLIC HEARINGS (None)**

**XVI. UNFINISHED BUSINESS**

- 1. Consideration of Amendment to City Council Handbook Sections Related to Appointment Procedures for Boards and Commissions, City Council Committees and Outside Agency City Council Positions (Staff Contact: Steve Mattas, 586-3040)**
- 2. Consideration of Response from City Attorney to the Possible Application of the Brown Act to meetings of the Terrace Gardens Corporation Board of Directors and Consideration of Specific Action Items First Raised by Councilmembers at February 1, 2005, City Council Meeting in Order to Provide Staff with Direction on What Information and Reports Should be Brought Back to the City Council for Further Consideration (Staff Contact: Steve Mattas, 586-3040)**
- 3. Direct Staff to Enter Discussions with Ola's Exotic Coffee Inc. on Expansion Incentives (Staff Contact: Cindy Maxwell, 586-3282)**
- 4. Receive Update on the Expansion (Phase II) of the Calpine Los Esteros Critical Energy Facility, Peaker Plant, Located West of the City of Milpitas Across Coyote Creek in the City of San Jose (Staff Contact: Troy Fujimoto, 586-3287)**
- 5. Receive Update on Midtown Transit Sub-Area Visioning Project for the 364-acre Area Around the Light Rail and Future Montague/Capitol BART Stations (Staff Contact: Tambri Heyden, 586-3280)**
- 6. Approve Purchase of Replacement Digital Voice Recorder for the 911 Emergency Communications Center (Staff Contact: Bill Marion, 586-2701)**
- \* 7. Approve Gateway Sign Pilot Project Conceptual Design and Location (Staff Contact: Liz Racca-Johnson, 586-3306)**

**XVII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor**

**RA2. Roll Call**

**RA3. Approval of Minutes: February 15, 2005**

**RA4. Approval of Agenda**

**RA5. Receive Progress Report on Library Design (Project No. 8162) (Staff Contact: Mark Rogge, 586-3403)**

**RA6. Agency Adjournment**

## **XVIII. REPORTS OF OFFICERS AND BOARDS**

### **City Council**

- \* 8. Approve Request from the North Valley Milpitas Bobby Sox for Contribution Towards Participation in the Nationals Tournament In Hawaii: Mayor Esteves

## **XIX. NEW BUSINESS**

- 9. Request to Waive Fire Department Permit and Inspection Fees (Staff Contact: Patti Joki, 586-3370)
- 10. Proposed Outreach Program to Encourage Residents to Submit Community Service Applications for City Commissions (Staff Contact: Gail Blalock, 586-3001)

## **XX. ORDINANCES**

- 11. Waive reading and introduce Ordinance No. 262.1 (1) repealing Chapter 310 of the Municipal Code; (2) repealing Chapter 320 of the Municipal Code; and (3) introducing Ordinance 262.1, adding Chapter 310 to Title I of the Milpitas Municipal Code establishing regulations governing access to public meetings and public records, designating city employee salary information by title as a public record, regulating lobbyists' activities and solicitation of donations by public officials and establishing an Open Government Commission ("Milpitas Open Government Ordinance") (Staff Contact: Steve Mattas, 586-3040)

## **XXI. RESOLUTIONS**

- \* 12. Adopt Resolution Amending The City Of Milpitas Classification Plan (Staff Contact: Cherie Rosenquist, 586-3082)

## **XXII. BIDS AND CONTRACTS**

- \* 13. Authorize the City Manager to Execute an Agreement with Bob Murray & Associates for Senior Management Recruitments (Staff Contact: Cherie Rosenquist 586-3082)
- \* 14. Reject Lowest Bid; Award Construction Contract and Approve Budget Appropriation: Athletic Court Rehabilitation – Phase II (2005) (Project No. 5069); Contractor: National Surfacing Company, (Staff Contact: Joe Ezeokeke, 586-3316)
- \* 15. Authorize the Acting City Engineer to Execute a Contract Change Order, Approve Agreement Amendment Korve Engineering, and Approve Budget Appropriation Form: Great Mall Parkway/I880 Capacity Improvements Project, Project No. 4178, (Staff Contact: Julie Waldron 586-3314)
- \* 16. Approve Amendment Agreement: RBF Consulting (Project No. 5055) (Staff Contact: Greg Armendariz, 586-3401)
- \* 17. Approve Modified First Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Staff Contact: Darryl Wong, 586-3345)
- \* 18. Authorize the City Manager to Execute a Permit with the City and County of San Francisco for the Use of the Hetch-Hetchy Right-of-Way for Public Parks Associated with the Elmwood Development (Staff Contact: James Lindsay, 586-3274)

- \* 19. Review and Approve Amendment No. 1 to the Consulting Services Agreement Between City of Milpitas and Dyett & Bhatia Urban and Regional Planners to Require Additional Public Meeting Attendance at a Cost of \$3,960 (Staff Contact: Tambri Heyden, 586-3280)**
- \* 20. Award Bid for Proliant Servers for Information Services (CP 8093) (Staff Contact: Chris Schroeder, 586-3161)**

**XXIII. CLAIMS AND DEMANDS**

- \* 21. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

**XXIV. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, MARCH 15, 2005, AT 7:00 P.M.**

**CITY OF MILPITAS**  
**Agenda Reports**  
**Milpitas City Council Meeting**  
**March 1, 2005**  
**6:00 p.m. Closed Session**  
**7:00 p.m. Public Business**  
**455 E. Calaveras Boulevard**

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**XV. PUBLIC HEARINGS (None)**

**XVI. UNFINISHED BUSINESS**

- 1. Consideration of Amendment to City Council Handbook Sections Related to Appointment Procedures for Boards and Commissions, City Council Committees and Outside Agency City Council Positions (Staff Contact: Steve Mattas, 586-3040)**

**Background:** This item was continued from the February 15, 2005, City Council meeting. At the City Council meeting of December 7, 2004, the City Council created an Appointments Subcommittee to make recommendations to the Mayor and City Council regarding the appointment of Councilmembers to City Council Committees, City Council Liaison positions, to outside agencies and regarding appointments to City Commissions. The City Council also appointed Councilmember Livengood and Vice Mayor Gomez to the newly-formed subcommittee. At the City Council meeting of January 4, 2005, the City Council provided the City Attorney with direction to amend the City Council Handbook section related to Council Committees, liaison, and outside agency appointments and board and commission appointments to reflect the advisory role of the newly-created subcommittee in the appointment process. Staff will require further direction from the City Council with regards to issue of whether the City Council desires to have the Subcommittee also provide recommendations regarding appointments to city commissions.

The attached amendment to the City Council Handbook would add language to the sections related to boards, regional boards, ad hoc and standing subcommittees and commissions to explain the advisory role of the Council Subcommittee in the appointment process. Under the proposed amendment, the Subcommittee would make appointment recommendations to the Mayor, to be presented to the Mayor and City Council at a City Council meeting, at which time, with the Mayor's concurrence, the recommendations would be presented to the City Council by the Mayor for consideration and action.

**Recommendation:** Consider the proposed amendment and provide direction.

- 2. Consideration of Response from City Attorney to the Possible Application of the Brown Act to meetings of the Terrace Gardens Corporation Board of Directors and Consideration of Specific Action Items First Raised by Councilmembers at February 1, 2005, City Council Meeting in Order to Provide Staff with Direction on What Information and Reports Should be Brought Back to the City Council for Further Consideration (Staff Contact: Steve Mattas, 586-3040)**

**Background:** This item was continued from the February 15, 2005, Council meeting. At its meeting of February 1, 2005, the City Council provided the City Attorney with direction to prepare a legal opinion as to whether the Board of Directors of Terrace Gardens is subject to open meeting and notice requirements of the Brown Act. Pursuant to that request, the City Attorney's office prepared a memorandum analyzing the issue, which has been transmitted to members of the City Council under separate cover.

During discussion of the agenda item related to the application of the Brown Act to the Terrace Garden Board of Directors, Councilmember Giordano raised a number of issues related to the

operation of the Terrace Gardens Board of Directors, the Corporation's bylaws and the Regulatory Agreement with the City, and asked that they be added to a future agenda. In addition, other members of the City Council also raised issues that they wanted to be included in a future agenda for further consideration. All of these items are listed below. If provided with specific direction from the City Council, staff can gather information relevant to these requests, and prepare memoranda addressing the specific issues raised. The issues include the following:

- 1) Consideration of potential request from Councilmember Giordano that, should the City Attorney conclude that the Terrace Gardens Board of Directors is not subject to the open meeting laws of the Brown Act, the City should act under the authority of the Regulatory Agreement's provision that the Board shall consent to regulation by the City to require that the Board of Directors adhere to the Brown Act.
- 2) Consideration of request for an amendment to the Terrace Gardens bylaws requiring that any amendment to the bylaws be approved by a majority of the City Council.
- 3) Consideration of the status of Terrace Gardens Board members appointed in 2004 and 2005.
- 4) Consideration of providing direction to the City Council Appointment Subcommittee to return with a recommendation for appointing a second Councilmember to the Terrace Gardens Board of Directors as provided for in the Terrace Gardens corporate bylaws.
- 5) Consideration of directing staff to prepare a status report related to the submission of Terrace Garden annual audit documents for 2002, 2003 and 2004 to the City.
- 6) Consideration of directing staff to prepare a status report related to submission of Terrace Garden Budget documents for 2004 to the City and whether the City Council has approved those documents.
- 7) Consideration of requesting staff to review and report to the City Council with respect to complaints about meals at the Terrace Gardens facility.
- 8) Consideration of directing the City Attorney to review the corporate Bylaws and the Regulatory Agreement with Terrace Gardens to determine the Board of Directors' obligations under both documents, determine any areas of non-compliance by the Board of Directors, and outline possible City recourse as to areas of non-compliance.
- 9) Consideration of request for report from staff related to listing of City Councilmembers who have served on the Terrace Gardens Board of Directors
- 10) Consideration of the City Council requesting to have Terrace Gardens legal representative make a presentation before the City Council.
- 11) Consideration of request for, and direction to the City Attorney to prepare a memo regarding, an amendment to the Terrace Gardens bylaws requiring that any amendment to the bylaws be approved by a majority of the City Council.
- 12) Discussion and possible action to remove members of the Terrace Gardens Board of Directors that were appointed in 2004 and 2005, according to the Corporation's bylaws.
- 13) Action to approve the appointment of a second Councilmember to the Terrace Gardens Board of Directors, according to the Corporation's bylaws.

**Recommendation:** Consider the agenda items and take action thereon including providing staff with direction as to specific action items.

**3. Direct Staff to Enter Discussions with Ola's Exotic Coffee Inc. on Expansion Incentives (Staff Contact: Cindy Maxwell, 586-3282)**

**Background:** This item was continued from the February 15, 2005, Council meeting. Ola's Exotic Coffee Inc. is expanding their operations to include manufacturing and is considering a site in Milpitas. They would like to explore whether there is any economic assistance the City

can offer that would be an incentive to expand their operations in Milpitas. Their request letter is included as an attachment to the mailed Council agenda.

**Recommendation:** Direct staff to enter discussions with Ola's Exotic Coffee Inc. regarding economic assistance incentives that may be available.

**4. Receive Update on the Expansion (Phase II) of the Calpine Los Esteros Critical Energy Facility, Peaker Plant, Located West of the City of Milpitas Across Coyote Creek in the City of San Jose (Staff Contact: Troy Fujimoto, 586-3287)**

**Background:** This item was continued from the February 15, 2005, Council meeting. In 2001, the Calpine Corporation made an application to the California Energy Commission (CEC) for review and approval of the Los Esteros Critical Energy Facility in north San Jose. In this application it was identified that this was the first of three phases for the ultimate build-out of the site. Phase 1 is a 180-megawatt (MW) natural-gas-fired, single-cycle generating facility.

In early 2004, the City was notified that Calpine had filed an Application for Certification for Phase 2 with the California Energy Commission. Subsequently, at the request of the City Council, in May 2004, staff presented an update of the status of the architectural treatment and landscaping for the facility.

Phase 2 of the project consists of increasing the output of the facility to 260 megawatts (MW) and would consist of improvements to convert it into a combined cycle generating facility. Improvements at the site include installation of new cooling towers, additions to the switchyard, new water pumps, generators, and other equipment necessary to accommodate the conversion. Included in the Council's packet is a background memorandum with additional information on the settlement agreement between the City and Calpine.

**Recommendation:** Note receipt and file.

**5. Receive Update on Midtown Transit Sub-Area Visioning Project for the 364-acre Area Around the Light Rail and Future Montague/Capitol BART Stations (Staff Contact: Tambri Heyden, 586-3280)**

**Background:** This item was continued from the February 15, 2005, Council meeting. Given additional activities that have taken place since the continued February 15<sup>th</sup> update, some information that would have been provided in that update has changed and has caused a two week delay in the Council presentation of the final concept plans from March 15, 2005, to April 5, 2005. At the January 27, 2005, Council Transportation Subcommittee, staff provided another update of the status of the Midtown Transit Sub-Area visioning project that includes such key locations as the Great Mall, the Waukesha properties, the McCandless and Centre Point Business Parks and Midtown's south precise plan area where many trucking and automotive-related uses exist on numerous small parcels. The update included a presentation providing additional information than was available at the time of the January 19, 2005, project update memorandum to the Council.

At the Subcommittee meeting, the Subcommittee requested that staff give the same presentation to the entire Council at their next meeting, prior to coming to the Council in April for presentation of the final alternative concept plans. The presentation provided information regarding beneficial ownership patterns; market capacity and trends; 5-, 15- and 30-year development and redevelopment opportunities based on feedback from stakeholder interviews, in addition to an explanation of three preliminary alternative concept plans that include residential, retail, entertainment/attractions facilities – important land use components to ensuring the long term viability of the Great Mall and maximizing the significant BART station capital investment.

The three alternative concept plans attached to the Council's January 19<sup>th</sup> memorandum have been critiqued at the January 20, 2005 stakeholder workshop and were revised for discussion at

the stakeholder charette on February 17, 2005, as well as at a February 22, 2005, community meeting. These concepts were provided to the Council by separate memorandum dated February 18, 2005. Since this four-month process will not result in a comprehensive transit area plan, complete with environmental clearance, design guidelines and general plan, specific plan and zoning code amendments, when the final conceptual plan alternatives are presented to the Council in early April, direction will be needed regarding whether to proceed with phase II during which these documents would be prepared. Although the City has been awarded a \$150,000 VTA grant for phase II, the estimated \$325,000 needed to complete phase II would need to be funded out of the redevelopment agency in FY 05-06 or through stakeholder contributions. However, with Council action in March, the City will have a much needed product that can be used by staff to evaluate new development to ensure it fits within the long term vision and does not preclude future options.

**Recommendation:** Note receipt and file the status report.

**6. Approve Purchase of Replacement Digital Voice Recorder for the 911 Emergency Communications Center (Staff Contact: Bill Marion, 586-2701)**

**Background:** This item was continued from the February 15, 2005, Council meeting. The Emergency Communications Center records all telephone and radio traffic and stores this data for a statutorily mandated period of time. This data is often needed internally by the Police and Fire Departments, is requested by the District Attorney's Office as case evidence or subpoenaed in Court cases. The existing equipment is over 5 years old and has recently experienced several hardware failures. The recording system has become increasingly unreliable and is in need of replacement. The Communications Center staff has reviewed replacement options and has recommended the Voice Print system because of its architecture, data redundancy and intuitive user interface. Contact with other Voice Print customers has been positive, citing ease of use, product reliability and responsive service. Voice Print is an approved supplier on the California Multiple Award Schedules (CMAS) program and has submitted a CMAS quote for replacement of the recording system. Total cost of the replacement equipment plus tax and one year of maintenance is \$33,637.39. Municipal Code section I-2-5.06 "Purchase Through a Governmental Entity" allows the City to make purchases through the competitively bid procurements of other governmental entities and satisfies the requirements for competitive bidding.

**Recommendation:** Approve the purchase of a voice logger/recorder from Voice Print International Inc., in an amount not to exceed \$33,637.39. Funds are available in the Enhanced Public Safety Project, (CIP#3389).

**\* 7. Approve Gateway Sign Pilot Project Conceptual Design and Location (Staff Contact: Liz Racca-Johnson, 586-3306)**

**Background:** This item was continued from the February 15, 2005, Council meeting. At the September 7, 2004, City Council meeting, staff identified five minor gateways to the City subject to an entry marker sign. These gateways are collector streets that cross over the city limits of Milpitas from adjacent communities. The locations include: 1) Piedmont Road at Landess Avenue, 2) North Milpitas Boulevard at the city's northern limits, 3) South Park Victoria Blvd. at Landess Avenue, 4) Capitol Avenue at the city's southern limits and 5) South Main Street at Montague Expressway. Piedmont Road was selected as the first location for implementing the sign pilot program.

Two sign concepts have been developed. Attached are exhibits showing these concepts. Both concepts are made from concrete and have the same theme colors as the City Hall Building.

The recommended option for Piedmont Road is Option 1.

The estimated price to construct the sign at Piedmont Road is approximately \$20,000.00. This cost includes solar lighting.



Staff recommends approval of a new CIP project number, CIP No. 4227, and there are sufficient funds in the Street Fund for this project.

**Recommendation:**

1. Approve Option 1 concept design for the Piedmont at Landess location.
2. Approve new CIP Project No. 4227 for the Gateway Sign Pilot Program and appropriation of \$20,000.00 into this project from the Street Fund.

**XVIII. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

**RA1. Call to Order by the Mayor**

**RA2. Roll Call**

**RA3. Approval of Minutes: February 15, 2005**

**RA4. Approval of Agenda**

**RA5. Receive Progress Report on Library Design (Project No. 8162) (Staff Contact: Mark Rogge, 586-3403)**

**Background:** The library project is currently proceeding with the schematic design phase. The project is included in the Capitol Improvement Program. Staff will give a brief presentation on the progress of the design at the Joint Redevelopment Agency and City Council Meeting.

**Recommendation:** Note receipt and file the progress report on the library design.

**RA6. Agency Adjournment**

**XVII. REPORTS OF OFFICERS AND BOARDS**

**City Council**

- \* **8. Approve Request from the North Valley Milpitas Bobby Sox for Contribution Towards Participation in the Nationals Tournament In Hawaii: Mayor Esteves**

**Background:** Mayor Esteves received a request from the North Valley Milpitas Bobby Sox for financial support of the Girls Softball teams to participate in this year's Nationals Tournament in Hawaii. Mayor Esteves is recommending the City Council provide a contribution of \$500 from the Council's Community Promotions budget.

**Recommendation:** Approve the Mayor's recommendations for a contribution of \$500.00 from the Council's Community Promotions budget to the North Valley Milpitas Bobby Sox.

**XIX. NEW BUSINESS**

- 9. Request to Waive Fire Department Permit and Inspection Fees (Staff Contact: Patti Joki, 586-3370)**

**Background:** The Fire Department has received a request to waive permit and inspection fees from the Chinese American Chamber of Commerce for its event of "Chinese New Year Flower Fair" on January 29 and 30, 2005. The fees were for plan review and inspection services, in the amount of \$468.00. Included in the Council's agenda packet is a copy of the request.

**Recommendation:** Review the request and direct staff accordingly.

**10. Proposed Outreach Program to Encourage Residents to Submit Community Service Applications for City Commissions (Staff Contact: Gail Blalock, 586-3001)**

**Background:** This item is on the agenda in response to a request from Councilmember Giordano for a report from staff on developing an outreach program to encourage a greater number of residents to submit Community Service Applications for appointment to City Commissions. Councilmember Giordano requested staff see what other cities do to reach out to the community and to come up with a list of possible suggestions for broadening the City's outreach. A memo from the City Clerk containing a list of ideas for publicizing openings and encouraging more residents to apply is included in the Council's agenda packets.

**Recommendation:** Consider suggestions for increasing interest in City Commissions and direct staff accordingly.

**XX. ORDINANCES**

**11. Waive reading and introduce Ordinance No. 262.1 (1) repealing Chapter 310 of the Municipal Code; (2) repealing Chapter 320 of the Municipal Code; and (3) introducing Ordinance 262.1, adding Chapter 310 to Title I of the Milpitas Municipal Code establishing regulations governing access to public meetings and public records, designating city employee salary information by title as a public record, regulating lobbyists' activities and solicitation of donations by public officials and establishing an Open Government Commission ("Milpitas Open Government Ordinance") (Staff Contact: Steve Mattas, 586-3040)**

**Background:** The proposed ordinance presented by Vice-Mayor Gomez establishes procedures governing access to public meetings and public records. The proposed ordinance repeals Chapters 310 and 320 of the Municipal Code, and incorporates Chapter 320, designating city employee salary information by title as a public record, into a new Chapter 310, which shall be known as "The Milpitas Open Government Ordinance." After publicly hearing the proposed ordinance at the Council's February 15, 2005 meeting, the Council directed staff make minor changes, which are now included in the Ordinance now before the Council. They include the following:

1. Incorporated the current Open Government ordinance's language regarding City Councilmember, Mayor, Planning Commission members maintaining a "public officials' calendar" and add "City Manager" to the list of persons required to maintain a "public officials' calendar."
2. Eliminated reference to supervisor of records for City Councilmembers. As an alternative, designated the Open Government Commission as the body a citizen or other public records requestor may petition for City Councilmember records or public information should their public records request remain unsatisfied. In addition, the City Manager's "Weekly Report" is designated as a public record that must be disclosed under I-310-3.110.
3. Incorporated the current Open Government ordinance's provisions related to review of Form 700 for all staff required to file a Form 700 by Municipal Code, Councilmembers, City Manager and Planning Commission. Added language that requires staff liaisons to review the Form 700s for members of their respective commissions.
4. Correct Section I-310-2.140(c), allowing speakers a "maximum" of three minutes during public comment on any item and during citizens' forum. Limited Mayor and Councilmembers during the Councilmember announcement session of the agenda to the same amount of speaking time as members of the public during citizens' forum.
5. Added Section I-310-2.190, opening one senior staff meeting per month open to the public. Such meeting shall be publicly noticed and made open to the public. It shall occur during business hours.

6. Added language to Section I-310-3.170, requiring training to Councilmembers for entering data into an automated public officials' calendar system.

Staff also requests direction from the Council regarding timelines for implementation for some of the provisions of the proposed Open Government Ordinance. Staff requests that the a additional time be allocated for the implementation of the public records index, from the current proposed timeline of 6 months to 12 months, due to the voluminous amount of records, and the need to coordinate staff time, technology, technology projects and procedures.

**Recommendation:**

1. Motion to waive reading beyond the title for Ordinance No. 262.1.
2. Motion to introduce Ordinance No. 262.1 (1) repealing chapter 310 of the Municipal Code; (2) repealing chapter 320 of the Municipal Code; and (3) adding Chapter 310 to Title I of the Milpitas Municipal Code establishing regulations governing access to public meetings and public records, designating city employee salary information by title as a public record, regulating lobbyists' activities and solicitation of donations by public officials and establishing an Open Government Commission ("Milpitas Open Government Ordinance").
3. Provide further direction to staff regarding implementation timelines for public records index and department indexes, as referenced in sections I-310-3.130 (Index to Records), and I-310-3.150 (I-310-3.150) of the proposed Open Government Ordinance.

## **XXI. RESOLUTIONS**

- \* **12. Adopt Resolution Amending The City Of Milpitas Classification Plan (Staff Contact: Cherie Rosenquist, 586-3082)**

**Background:** Amendments to the Classification Plan are periodically required to account for organization changes, increased job responsibilities and equity adjustments to salary ranges and/or other related changes or conditions.

At the request of the City Manager, a study on the salary range for the Economic Development Manager was conducted by the Human Resources Department. The study included a review of salaries with similar size cities and those within a close geographic range. Analysis of the cities surveyed showed similar responsibilities to the revised Milpitas Economic Development Manager job description (attached). The salaries for the surveyed cities ranged from \$111,000 to \$143,000. The current salary range for the Milpitas Economic Development Manager is \$86,675 - \$114,091. Staff's proposal also included a review of internal alignment with our own management staff. Most importantly, the revised salary should allow the City to attract qualified candidates to the meet our business needs and to be competitive with comparable neighboring cities.

The staff is also recommending that this classification be a part of the unrepresented, exempt senior management group. This action has already been reviewed and agreed upon with the appropriate bargaining unit pending Council's approval.

**Recommendation:**

1. Adopt a resolution amending the Classification Plan to modify the salary range for the Economic Development Manager to an annual salary range of \$107,942 - \$131,205 and be placed in the unrepresented, exempt senior management group.
2. Request approval of a budget appropriation of \$26,906 from the Redevelopment Agency Fund balance for fiscal year 2004-05.

## **XXII. BIDS AND CONTRACTS**

- \* **13. Authorize the City Manager to Execute an Agreement with Bob Murray & Associates for Senior Management Recruitments (Staff Contact: Cherie Rosenquist 586-3082)**

**Background:** During Spring of 2005, the City will be conducting a series of recruitments to fill positions identified by the City Council as key senior management hires. Recruitment efforts for these positions, including the Fire Chief, Economic Development Manager, and Planning and Neighborhood Services Director, must target the most qualified candidates to meet the City's need for continued management leadership.

The City conducted a survey of qualified executive recruitment firms, which were all very competitive. The staff recommends Bob Murray & Associates who have a national reputation for conducting quality searches and placing exceptional candidates. With over 25 years of experience, they have conducted hundreds of searches for municipal and special district executives. Bob Murray & Associates is familiar with Santa Clara County and the surrounding region and have been utilized extensively for executive recruitment and selection efforts throughout the Bay Area.

The cost of the recruitment and selection processes for these three positions will not exceed \$45,000. There are sufficient funds allocated in the Human Resources budget.

**Recommendation:** Authorize the City Manager to execute an agreement with Bob Murray & Associates, subject to approval as to form by the City Attorney, in an amount not to exceed \$45,000 for the administration of recruitment and selection for the Fire Chief, Economic Development Manager, and the Planning and Neighborhood Services Director.

**\* 14. Reject Lowest Bid; Award Construction Contract and Approve Budget Appropriation: Athletic Court Rehabilitation – Phase II (2005) (Project No. 5069); Contractor: National Surfacing Company, (Staff Contact: Joe Ezeokeke, 586-3316)**

**Background:** On November 2, 2004, the City Council approved the project plans and specifications and authorized the advertisement for construction bid proposals. This project involves rehabilitation of various athletic courts located within the following Parks:

- Dixon Landing Park      (3) Tennis courts and (1) Basketball court
- Hall Park      (4) Tennis courts
- Pinewood Park      (4) Tennis courts and (1) Basketball court
- Gill Park      (3) Tennis Courts, (2) Handball Courts, (1) Basketball Court
- Yellowstone Park      (4) Tennis Courts

The Engineer's estimated construction cost is \$439,381.91 for the Base Bid, and \$285,219.00 for the three Additive Bid Alternates for a combined amount of \$724,600.91.

The project was advertised and sealed bid proposals were opened on January 10, 2005. The bid proposals ranged from \$286,515.56 to \$539,803.50, and from \$139,150.00 to \$185,616.00 for base bid, and additive bid alternative respectively. The lowest bid was submitted by R&M Paving Contractors, Inc. However, the low bidder has requested to be relieved of the bid due to mathematical error in their bids. The City Attorney has reviewed the request and concurs with staff recommendation to reject the lowest bid and award the contract to the second responsible low bidder, National Surfacing Company, Inc in the amounts of \$419,244.14 for the base bid, and \$185,806.05 for the add alternate bids for a total of \$605,050.19.

The current project unencumbered fund balance is approximately \$600,000. Staff recommends approving the alternate bid work due to the attractive bid for the work. A budget appropriation in the amount of \$100,000 from the Park Fund is required to award this project, to cover project base, and additive bid amounts, testing, inspection, administration, and engineering contingencies.

**Recommendation:**

1. Reject lowest bid by R&M Paving Contractors Inc, and Award Construction Contract to National Surfacing Company, Inc. in the amounts of \$419,244.14, and \$185,806.05 (base and additive bids respectively) for a total of \$605,050.19.
2. Approve a budget appropriation in the amount of \$100,000 from the park fund

- \* 15. **Authorize the Acting City Engineer to Execute a Contract Change Order, Approve Agreement Amendment Korve Engineering, and Approve Budget Appropriation Form: Great Mall Parkway/I880 Capacity Improvements Project, Project No. 4178, (Staff Contact: Julie Waldron 586-3314)**

**Background:** The City Council awarded this project to Granite Construction on November 16, 2004, and construction is underway. The completed project will provide an increase in the traffic capacity of the existing Great Mall Parkway/I880 interchange with the following improvements: Widening of the southbound off ramp and adding a third eastbound thru lane on Tasman Drive, between the northbound on and off ramps. The work will include relocation of pedestrian walkways and ramps, relocation of utility appurtenances and associated signal modifications.

Change Order: Additional revisions are required by Caltrans, resulting in changes to traffic signal pole type location of electrical service, and revisions to the traffic controller and associated conduits and pull boxes. Staff has negotiated a change order for \$16,805 with the Contractor for this additional work, and the approval of a contract change order is recommended.

Agreement Amendment: On October 25, 2001, City Council awarded a consultant contract to Korve Engineering for the design of Great Mall Parkway and Tasman/I880 Capacity Improvements. Korve Engineering has performed additional services as follows; 1) lengthy Caltrans permit process resulting from the closure of the Caltrans San Jose office during the permit review process for this project; 2) changes in Caltran's ability to obtain approval with the Division of State Architecture, which required Korve Engineering to additionally coordinate directly with Division of State Architecture for approval of the project; 3) recent changes to the VTA contract to construct the 237 ramp to southbound I880 required Korve to redesign the southbound off ramp. An agreement amendment is proposed for these additional services. Staff has negotiated a scope and fee for these services of \$27,195, which is considered reasonable for the work. Approval of the agreement amendment is recommended.

Additional Costs/Budget Appropriation: After further investigation of field conditions during construction including other unforeseen additional work, construction staff has determined that additional budget for project management, materials, testing and inspection, and construction contingencies in the amount of \$56,000 are required to complete the project.

Funding: A budget appropriation is required to fund the above project items. On January 18, 2005 Council approved the KB Development Agreement and infrastructure Fund, which provides for a cost sharing of \$400,000 for traffic mitigations along the Great Mall Corridor, including work to be done by this project. An appropriation in the amount of \$100,000 is necessary from this source to complete this project. A Summary of the budget allocation is provided in the table below:

Description	Allocation
Contract Change Order	\$16,805
Korve Engineering Agreement Amendment	\$27,195
Construction Contingency, materials testing and inspection	\$56,000
<b>TOTAL</b>	<b>\$100,000</b>

**Recommendation:**

1. Authorize the Acting Assistant City Engineer to execute the Contract Change Order to Granite Construction in the amount of \$16,805.
2. Approve Agreement Amendment with Korve Engineering the amount of \$27,195 subject as to form by the City Attorney.
3. Approve a budget appropriation for \$100,000 from KB Infrastructure Fund.

- \* 16. **Approve Amendment Agreement: RBF Consulting (Project No. 5055) (Staff Contact: Greg Armendariz, 586-3401)**

**Background:** The City has an active contract with RBF Consulting to provide environmental services relating to a variety of projects. On May 4, 1999, City Council awarded an agreement with RBF to provide environmental clearance documents for Project No. 5055, Alviso Adobe. The project now requires updated environmental studies.

A scope of services with RBF to update these studies in the amount not-to-exceed \$21,160.00 is proposed. There are sufficient funds in the project account and staff recommends approval of the agreement amendment.

**Recommendation:** Authorize the City Manager to execute the amendment agreement with RBF Consulting, in the amount of \$21,160.00, subject to approval as to form by the City Attorney.

- \* 17. **Approve Modified First Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program (Staff Contact: Darryl Wong, 586-3345)**

**Background:** The Council has previously executed a Memorandum of Agreement (MOA) among the fifteen Regional Water Quality Urban Runoff Pollution Prevention Program discharge co-permittees, in Santa Clara County. The permit requires agencies that have stormwater collection systems to manage and enforce activities to minimize pollutant discharges. The MOA serves as the basis for jointly implementing and coordinating the Santa Clara Valley Urban Runoff Pollution Prevention Program in order to maximize efficiencies, consistency, and economy-of-scale savings for evaluations, performance standard development, regional outreach, annual management plan/status submittals, and other mandated permit activities. The existing MOA terminates on March 10, 2005.

A proposed First Amendment was approved by the Council on November 16, 2004. However, this proposed amendment was never ratified since one of the co-permittees, the Santa Clara Valley Water District, has requested a cost sharing review over the next year. A one-year extension of the agreement, and cost allocation review of the program are included in the proposed modified first amendment. No other changes are proposed. A modified First Amendment to the MOA is recommended by staff. Copies of the proposed amendment, and the existing agreement may be found in the Council's packet.

**Recommendation:** Approve and Authorize the City Manager to sign the First Amendment to the Memorandum of Agreement for the Santa Clara Valley Urban Runoff Pollution Prevention Program.

- \* 18. **Authorize the City Manager to Execute a Permit with the City and County of San Francisco for the Use of the Hetch-Hetchy Right-of-Way for Public Parks Associated with the Elmwood Development (Staff Contact: James Lindsay, 586-3274)**

**Background:** At its January 18<sup>th</sup> meeting the City Council approved the Elmwood Development Project that included the development of four acres of public park area on the Hetch-Hetchy right-of-way. The basic framework of the permit is similar to other permits the City has obtained from the San Francisco Public Utilities Commission (SFPUC) with the exception of the use fees. The SFPUC is requesting \$2,023.88 per month (with an annual CPI adjustment) for use of the

right-of-way, which is more than the City has typically paid. This increase is due to the “potential commercial value” the SFPUC has assigned to the section east of Main Street and the new parking area for the park on the western section. As provided for in the project’s Disposition and Development Agreement, \$1.5 million from the infrastructure account will be set aside to pay the use fee over time. This amount, with interest, should be sufficient to cover the monthly fee (including the CIP increases) indefinitely. City staff is still working with the SFPUC on language modifications regarding the description of park improvements, insurance requirements, and fee increases outside of the CPI. The permit in the Council’s packet is a draft and will be subject to change in regards to the issues identified above.

**Recommendation:** Authorize the City Manager to execute the permit.

**\* 19. Review and Approve Amendment No. 1 to the Consulting Services Agreement Between City of Milpitas and Dyett & Bhatia Urban and Regional Planners to Require Additional Public Meeting Attendance at a Cost of \$3,960 (Staff Contact: Tambri Heyden, 586-3280)**

**Background:** At the February 15, 2005, Council meeting, presentation of an update of the preliminary conceptual land use plans being prepared by Dyett and Bhatia Urban and Regional Planners for the Midtown transit sub-area was postponed to the March 1, 2005, Council meeting. Given that this four-month visioning project involves a compressed timeline to assist property owners and developers in the study area who are looking for guidance and are ready to move forward with development of their properties, the project schedule will need to be extended three weeks. With this additional time, it is recommended that an additional presentation be made to the Planning Commission prior to presentation of the final concept plans, as well as an additional presentation to the City Council. The cost of the additional public meetings is \$3,960. With this proposal, the final Planning Commission presentation will occur on March 23, 2005, and the final Council presentation will move from March 15, 2005 to April 5, 2005. This amendment will increase the original not-to-exceed contract amount of \$103,070 to \$107,030. Unused funds from the redevelopment agency are already available in the department’s budget to cover this additional expense.

**Recommendation:** Review and approve Amendment No. 1 to the Consulting Services Agreement Between the City of Milpitas and Dyett & Bhatia Urban and Regional Planners to require additional public meeting attendance at a cost of \$3,960 bringing the not-to-exceed amount of the original contract to \$107,030 and postponing the final Council presentation to April 5, 2005.

**\* 20. Award Bid for Proliant Servers for Information Services (CP 8093) (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** Staff issued a Request for Quotation for 5 Proliant servers for Information Services. Requests for Quotation were sent to 27 computer equipment suppliers on Purchasing’s bidders list, seventeen responded. The servers are part of the City’s Information Services backbone and are replacing older obsolete equipment. The following is the recap of bids received:

<u>Bidder</u>	<u>Amount</u>
HPM Networks	\$32,677.43
Miracle Computers	\$35,917.35
Skylite.tv	\$43,071.59
Sysorex Consulting	\$45,336.18
JPk Micro Supply	\$34,531.75
En Point Technologies	\$34,470.83
CompUSA	\$34,929.35
Computer Express	\$38,066.11
Zones	\$34,577.45
Micro World	\$37,773.61
CBX Technologies	\$31,467.21
Microworld	\$31,635.00
Computerland	\$29,389.88
WAN/LAN Solutions	\$35,350.12
Insight Public Sector	\$51,505.50
Netis Technology	\$37,200.11
Surah	\$27,776.95

There are sufficient funds available in the Telecommunications Infrastructure Project (CP8093) for this purchase.

**Recommendation:** Award the bid for the purchase of five (5) Proliant DL 380 servers to Surah, Inc. in the amount of \$27,776.95.

### **XXIII. CLAIMS AND DEMANDS**

- \* **21. Approve Payment Requests: Miscellaneous Vendors / Contractors (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** In accordance with direction given by City Council at its August 15, 1995 meeting, Purchasing has prepared the following list of purchasing requests over \$5,000.00 for approval:

1. \$300,000 increase to Purchase Order 3481 to Meyers Nave for fiscal year 2004-2005 for Public Works construction litigation expenses including attorney's fees, costs and expert witness fees. (Funds are available in the City Attorney's operating budget for these services.)
2. \$5,063.90 to LC Action for Streamlight M3X AR15 gun lights and mounting hardware. The budget appropriation was approved by Council on January 18, 2005. (Funds are on deposit and available as part of the State COPS grant for 2005).
3. \$4,316.85 to Lincoln Equipment, Inc. for the purchase of a new Maxi-Sweep 5.5 HP pool sweep for the Milpitas Sports Center. The old equipment outlived its useful life and was no longer worth repairing. (Budget appropriation is needed from the Equipment Fund for this purchase).

**Recommendation:** Approve the purchase requests.

### **XXIV. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, MARCH 15, 2005, AT 7:00 P.M.**